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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,882	02/23/2004	Craig French	3426-0108P	7102
2292 7590 10/29/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER KEENAN, JAMES W				
ART UNIT 3652		PAPER NUMBER		
NOTIFICATION DATE 10/29/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/782,882

Applicant(s)

FRENCH, CRAIG

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 7 and 8 is/are allowed.
6) ☒ Claim(s) 1-6, 9-12, 14-19 and 21-23 is/are rejected.
7) ☒ Claim(s) 13 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 7/17/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if the recitation of "pockets" refers to the "plurality of pockets" set forth in claim 1.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9-12, 14-17, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Love, Jr. (US 3,931,902) in view of Rouse (US 6,648,578), both previously cited.

Love shows a cable reel loading trailer comprising main frame 4 supported by wheels and including spaced apart longitudinally extending support arms 7, 8, a lifting frame pivotally attached to the main frame including lever arms 36, 37, and spaced apart longitudinally extending lifting arms 16, 17 connected to the lever arms, the lifting arms and support arms defining a spool receiving volume in the rear of the trailer, a support rack attached to the lifting arms comprising spaced apart spool supporting rack

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members 27, 28 extending "mainly vertically", as broadly claimed, from each of the lifting arms, a connecting device 42-44 (fig. 3) for connecting the lifting frame to the main frame to prevent pivoting movement of the lifting frame, the rear of the trailer being open to afford loading and unloading of spools, and wherein each rack member includes a plurality of U-shaped pockets 33 at various heights to accommodate different sized spools, the pockets forming a resting and securing place for spindles 34 upon which the spools are positioned.

Love does not show a single lever arm to which both lifting arms are directly connected.

Rouse shows a trailer comprising a main frame 24 with support arms 34 and a pivotally attached lifting frame 22, wherein a lever arm 38 is directly attached to spaced apart, longitudinally extending lifting arms 34 of the lifting frame. (Note: the unlabeled, laterally extending crossbeam which connects the lever arm to the lifting arms is considered to be part of either the lever arm or the lifting arms, in the same manner that either of elements 27 or 28b is apparently considered part of applicant's lever arm or lifting arms, as this is the only way in which applicant's lever arm (which applicant identifies as element 8a) can properly be considered as being directly connected to the lifting arms (which applicant identifies as elements 6a), as required by the claims).

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Love by replacing the separate, individual lever arms with a single, central lever arm directly connected to both lifting arms, as

shown by Rouse, as this would simply be an art recognized, alternate equivalent means of raising and lowering a load supporting frame relative to a main frame on a trailer.

Re claim 2, Love does not show a jack stand for supporting the trailer when not connected to a towing vehicle.

Rouse shows a jack stand 45, and in view thereof, it would have been obvious for one of ordinary skill in the art at the time of the invention to have additionally modified the apparatus of Love with such a feature, to support and stabilize the trailer when not connected to a towing vehicle.

Re claim 3, both references show a tongue with a hitch, and re claim 5, the tongues in both references are operatively connected to the support arms.

Re claim 4, Love shows the connecting device to include a pin 42 for connecting the lifting frame to a vertical support member extending upwardly from the main frame, but the pin does not connect the lever arm to a U-shaped yoke fastened to the vertical support member. Rouse shows in fig. 5 a connecting device for selectively connecting the lifting frame to the main frame, including a U-shaped yoke 88 fastened to an upwardly extending support member 56, and a pin 94 interconnecting the yoke with the lever arm 38.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have additionally modified the apparatus of Love with the specific yoke/pin connecting assembly shown by Rouse, as this would simply be a logical extrapolation of the modification described above.

Re claims 6 and 23, Love does not show the support arms to each include a pair of fulcrum arms extending diagonally upward therefrom at the middle portion thereof.

Rouse shows the spaced-apart support arms of the main frame 24 to each include at least a pair of upwardly diagonally extending fulcrum arms 37 attached thereto at the middle portion thereof.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Love with the above noted features shown by Rouse, as an alternate equivalent means of pivotally connecting a lifting frame to a main frame of a trailer.

Re claim 9, as noted above, the pockets 33 are U-shaped.

Re claim 10, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Love by constructing the pockets with a plurality of sizes to accommodate various spool diameters, as this would be a mere design expediency, particularly in light of the lack of a showing of any structural details of what such a feature comprises.

Re claim 11, a spool clearly "may be positioned", as broadly claimed, using collars on each side of the spool. Love appears to show, but does not explicitly identify, such collars in fig. 4. However, even if it is determined that centering collars are not disclosed by Love, the claim is nevertheless met by the reference, because this is not a positively recited structural limitation but merely a statement of intended use for which the device of Love could clearly be used.

Re claim 12, holes 35 are considered to be "locking devices", as broadly claimed.

Re claim 14, Love shows the main frame to include a horizontal lateral cross member 5 interconnecting forward ends of the spaced-apart support arms 7, 8, and to which a rearward end of the tongue 6 is attached.

Re claim 15, Love does not show the lifting frame to include a horizontal lateral cross member interconnecting the forward ends of the lifting arms and to which the rearward end of the lever arm is attached. However, as noted above, Rouse shows the lifting frame to include a horizontal lateral cross member (fig. 5) interconnecting forward ends of spaced-apart lifting arms 34 and to which the rearward end of lever arm 48 is attached, and this structure would obviously be included in the modification described above.

Re claim 16, the trailer of Love could clearly be "adapted for carrying bales ... held in place by penetrating bars", as broadly claimed.

Re claim 22, note that the support arms of Love are parallel.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Love in view of Rouse, as applied to claim 1 above, and further in view of Schwien et al (US 4,095,706, previously cited).

As noted above, Love appears to show but does not explicitly teach engaging and holding members held in place by collars.

Schwien shows a bale handling trailer with engaging and holding members 90 mounted on a spindle 83 and held in place by collars 85.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Love with engaging and holding members held in place by collars, if not inherent therein, as shown by Schwien, as this would allow the trailer to be used for bales instead of or in addition to reels, and would neither require undue experimentation nor produce unexpected results.

Re claim 19, note that Love discloses unrolling cable from the reel (col. 3, lines 12-14), in a manner analogous to unrolling a bale.

6. Applicant's arguments with respect to claims 1-6, 9-12, 14-19, and 21-23 have been considered but are moot in view of the new ground(s) of rejection.
7. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 7-8 are allowed.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Keenan/
Primary Examiner
Art Unit 3652

jwk
10/23/08